

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-2527

SITE DEVELOPMENT PERMIT NO. 98185
LEGACY WALK – PROJECT NUMBER 23357
CITY COUNCIL

This Site Development Permit, Number 98185 is granted by the Council of the City of San Diego to The Robinson Family Trust, Family Trust and Iola Manual, Owners, and The Olson Company, a Limited Liability Corporation, Permittee, pursuant to San Diego Municipal Code [SDMC] Section 126.0504. The 7.0-acre site is located on the east side of South 43rd Street, south of Logan Avenue, in the CT-2 and MF-1500 zones and in the Southcrest Neighborhood of the Southeastern San Diego Planning area within the Southeastern San Diego Community Plan. The project site is legally described as (Legal Description Attached).

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to demolish 5 existing structures (three residences and two commercial structures) and construct a 110-unit (11 units affordable at 100% Area Median Income), multi-family development on a 7.0-acre infill site, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated November 9, 2004, on file in the Development Services Department.

The project or facility shall include:

- a. a 232,673 square-foot residential development consisting of 110 townhome style multi-family (56 three-bedroom and 54 four-bedroom) units in 18 buildings;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. Retaining Walls, private decks, 30,000 square-feet of on-site open space area; and

- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial

conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. This Permit shall become effective with recordation of the corresponding final subdivision map for and approval of the project site.

11. The applicant shall post a copy of the approved Site Development Permit in the sales office for consideration by each prospective buyer.

AFFORDABLE HOUSING REQUIREMENTS

12. Prior to the issuance of any building permits, the developer shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

13. Prior to the recordation of the first final map, the applicant shall enter into an agreement with the Housing Commission memorializing how the project is meeting the requirements of the Inclusionary Housing Ordinance.

ENVIRONMENTAL REQUIREMENTS:

14. Prior to the issuance of any building permits, the applicant shall demonstrate that past soil contamination levels are acceptable for residential use to the satisfaction of the County Department of Environmental Health (DEH).

15. Prior to the issuance of any building permits, the applicant must provide to the Environmental Review Manager a "No Further Action" letter or other certification from the County DEH verifying DEH approval that the site meets the criteria for residential use.

ENGINEERING REQUIREMENTS:

16. Prior to the issuance of any construction permit, the Owner/Permitee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

17. Prior to the issuance of any construction permit, the Owner/Permitee shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99 08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99 08 DWQ

18. Prior to the issuance of any building permit , the Owner/Permitee shall construct to the satisfaction of the City Engineer sidewalk adjacent to the northern boundary of the project site, consistent with the City of San Diego's Capital Improvements Program project for the future realignment of National Avenue.

19. Prior to the issuance of any building permit, the Owner/Permitee shall construct to the satisfaction of the City Engineer, sidewalk, and curb and gutter adjacent to the project site on that portion of 44th Street where these improvements do not exist.

20. All driveways and curb openings shall comply with City Standard Drawings G-14A, G-16 and SDG-100.

21. The drainage system proposed for this project is private and subject to approval by the City Engineer.

22. Prior to the issuance of any building permit, the Owner/Permitee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

23. Prior to the issuance of grading permits, a geotechnical investigation report shall be required that specifically addresses the proposed grading plans and cites the City's Job Order No. and Drawing No. The geotechnical investigation shall provide specific geotechnical grading recommendations and include geotechnical maps, using the grading plan as a base, that depict recommended location of subdrains, location of outlet headwalls, anticipated removal depth, anticipated over-excavation depth, and limits of remedial grading.

LANDSCAPE REQUIREMENTS:

24. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.
25. Prior to issuance of any engineering permits for grading, construction documents for the revegetation and hydroseeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.
26. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 sq-ft area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
27. Prior to the issuance of any engineering permits for right-of-way improvements, the owner/permittee shall obtain an Encroachment Maintenance and Removal Agreement from the City Engineer for landscaping within the future realignment for 43rd Street and Logan Avenue.
28. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Concept Plan, on file in the Office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."
29. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Concept Plan, on file in the Office of the Development Services Department. Construction plans shall take into account a 40 sq-ft area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)5.
30. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
31. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.
32. The Permittee or subsequent owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape

Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

33. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within 30 days of damage or Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

34. No fewer than 220 off-street vehicle parking spaces and 11 motorcycle parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

35. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

36. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

37. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

38. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

39. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

40. All signs associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A"); or
- b. Citywide sign regulations.

41. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
42. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
43. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
44. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.
45. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers, and latticework.
46. No merchandise, material, or equipment shall be stored on the roof of any building.
47. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.
48. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A."

WASTEWATER REQUIREMENTS:

49. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.
50. The sewer relocation plan proposed by the applicant is based on a conceptual design without any information on existing dry utilities. The applicant shall relocate the on-site public sewer mains satisfactory to the Metropolitan Wastewater Department Director as proposed on the approved sewer study. If the applicant is unable to achieve design parameters for this relocation project as proposed on the approved sewer study, the sewer mains and associated

easements will have to remain in place. If the relocation is achieved per the approved study, the associated easements shall be abandoned satisfactory to the Metropolitan Wastewater Department Director.

51. Prior to the issuance of any engineering or building permits, the developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of on site private sewer mains that serve more than one ownership.

52. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

WATER REQUIREMENTS:

53. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway, and the disconnection at the water main of all existing unused services adjacent to the site, in a manner satisfactory to the Water Department Director and the City Engineer.

54. The Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Department, the Water Department Director and the City Engineer.

55. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) on each water service (domestic, fire, and irrigation), in a manner satisfactory to the Water Department Director and the City Engineer.

56. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

57. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities shall be modified at final engineering to comply with standards.

PARK DEVELOPMENT REQUIREMENTS:

58. At the time of building permit issuance, subdivider shall pay park fees, development impact fees or facilities benefit assessment fees, as appropriate for approximately 52 units, and park fees for approximately 58 additional units allowed by the rezone, and not considered in the DIF account. The fee shall be equivalent to the cost for acquisition, design and construction of approximately 0.674 contiguous, usable acres (maximum 2% grade for active recreation) of population-based park land and facilities. Any revision in the number of units will require recalculation of the fees by the Park Planning and Development Division.

59. At the time of building permit issuance, subdivider shall pay park fees, development impact fees or facilities benefit assessment fees, as appropriate, for a pro rata share of population-based

park facilities including a 15,000 square foot community recreation building and a 25 yard by 25 meter community swimming pool to be located off-site.

60. The total amount of park fees shall be as determined by the Park Planning and Development Division based on current design and construction costs and fair market value of the land at time of building permit issuance.

INFORMATION ONLY:

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego on November 9, 2004, Resolution Number _____.

AUTHENTICATED BY THE CITY MANAGER

By

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

The Olson Company
Owner/Permittee

By

By

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

Rev. 7/15/04 dcj

ALL-PURPOSE CERTIFICATE

Site Development Permit Number 98185
Date of Approval

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

Daniel Stricker, Development Project Manager

On _____ before me, NAME OF NOTARY~, (Notary Public), personally appeared **Daniel Stricker**, Development Project Manager of the Development Services Department of the City of San Diego, personally known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature _____
Name of Notary~

ALL-PURPOSE CERTIFICATE

OWNER(S)/PERMITTEE(S) SIGNATURE/NOTARIZATION:

THE UNDERSIGNED OWNER(S)/PERMITTEE(S), BY EXECUTION THEREOF, AGREES TO EACH AND EVERY CONDITION OF THIS PERMIT AND PROMISES TO PERFORM EACH AND EVERY OBLIGATION OF OWNER(S)/PERMITTEE(S) THEREUNDER.

Signed _____ Signed _____
Typed Name Typed Name

STATE OF _____
COUNTY OF _____

On _____ before me, _____ (Name of Notary Public) personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____